

MAXWELL KADEL, et al.,)
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 Plaintiffs,)
) No. 1:19-cv-272-LCB-LPA
 V.)
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 DALE FOLWELL, et al.,)
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 Defendants.)
)

1 Q. Okay. And any other positions before that?

2 A. No.

3 Q. Or in between the two?

4 A. Not for DPS.

5 Q. Okay. Yeah.

6 What are your, what are your responsibilities?

7 A. I oversee the benefits programs for the
8 department, which include insurance benefits, leave
9 benefits, retirement and disability benefits, as well as
10 leave of absence and separations.

11 Q. And what were your, what were your
12 responsibilities as disability -- was it Disability
13 Benefits Manager? Was that the previous position?

14 A. It was Disability and Retirement Program Manager.

15 And my responsibilities were to oversee the
16 retirement program for the agency, as well as the
17 disability benefits for the agency, and process disability
18 payments monthly for employees out on short-term
19 disability.

20 Q. Ms. Johnson, does the Department of Public Safety
21 offer health insurance to its employees?

22 A. Yes. Through the State Health Plan.

23 Q. Sorry -- you said through the State Health Plan?

24 A. Yes. Yes.

25 Q. And does DPS pay money into the State Health Plan

1 to contribute for its employees' health insurance premiums?

2 A. Yes. We pay a monthly employee, employer portion
3 for each employee.

4 Q. And how is the amount that DPS pays into the
5 State Health Plan each month determined?

6 A. The State Health Plan determines it each year and
7 provides it to us.

8 Q. And so DPS doesn't play a role in making that
9 determination. It's purely the State Health Plan, and DPS
10 just goes along with that.

11 Is that right?

12 A. Yes. That's correct.

13 Q. And so if the amount changes at any point, that
14 would all be determined by the State Health Plan?

15 A. Correct.

16 Q. Approximately how many DPS employees qualify for
17 health insurance through the State Health Plan?

18 A. We have about 21,000 employees.

19 Q. And all of them are on the State Health Plan?

20 There aren't any who don't qualify for insurance
21 or --

22 A. Well, depending on their hours worked, some
23 probably don't qualify, or some that have declined coverage
24 because they have other coverage.

25 Q. Right. Can you estimate of how many of those

1 21,000 employees would be on the State Health Plan?

2 A. I would say maybe about 18 or 19,000.

3 Q. And again approximately, how much does DPS pay
4 the State Health Plan each year in total for all these
5 employees?

6 A. We don't pay it directly, the Office of the State
7 Controller pays it. I can give you the monthly amount per
8 employee.

9 Q. Sure. That's fine.

10 A. It's 521.96 currently.

11 Q. And so just to make sure I'm understanding -- so
12 that's, it's 521 or so for each of those employees.

13 And that's for all of those employees who are on
14 the Health Plan, correct?

15 A. Correct. Yes.

16 Q. So if I were doing the math, I could just
17 multiply that by 18 or 19,000 and that would be the total?

18 A. Yes.

19 Q. Does the Department of Public Safety have any
20 control over the health insurance that its employees
21 receive?

22 A. No.

23 Q. Okay. And I'm actually going to pull up -- well,
24 I'm going to send another, put another exhibit into the
25 folder, if you'll bear with me for a minute.

1 would they have to ask a question about how to access the
2 website?

3 A. So, yeah, generally they would go to the HBR at
4 their facility to ask questions, for help.

5 There is no form. It has to be done through the
6 system.

7 But if they can't get up with the HBR, they would
8 reach out to the Insurance Section in our office.

9 Q. Okay. And HBR, is that Health Benefits
10 Representative?

11 A. Yes. It is.

12 Q. Does DPS offer any type of health insurance apart
13 from what is offered through the State Health Plan?

14 A. No.

15 Q. Are DPS employees required to sign up for health
16 insurance?

17 A. No.

18 Q. Does DPS provide insurance, health insurance for
19 employees' qualifying dependents?

20 A. Yes.

21 Q. And does DPS offer health insurance for anyone
22 other than the employees and their qualifying dependents?

23 A. No.

24 Q. I'm going to pull up another exhibit here.

25 MR. MAROLF: Give me one second, Alan.

1 to process those exception requests?

2 A. So if our Insurance Section determines that we
3 can submit an exception request, we type up that exception
4 request and submit it through an online form to the State
5 Health Plan.

6 And then the State Health Plan reviews that and
7 makes the final determination as to whether they'll
8 reinstate the coverage or not.

9 Q. And so that, that final determination is made by
10 the State Health Plan.

11 Is that right?

12 A. Yes. That's correct.

13 Q. I want to ask about the State Health Plan's
14 exclusion of coverage for gender confirming healthcare.

15 Does that exclusion apply to DPS employees?

16 A. Yes. It would apply, if it's a State Health Plan
17 exclusion, it would apply to anybody enrolled in the State
18 Health Plan.

19 Q. And does DPS have any control over whether that
20 exclusion remains in the Plan?

21 A. We do not.

22 Q. Does DPS have any control over any terms of the
23 Plan?

24 A. No. We do not.

25 Q. Has DPS ever received any complaints from

1 employees about the exclusion for gender confirming care?

2 A. Not to my knowledge. If we received complaints
3 about what is covered, we usually just direct them to the
4 State Health Plan at the number on their insurance card
5 because we don't have any control over the coverage terms.

6 Q. Have there ever been any communications between
7 DPS and Sergeant Dana Caraway regarding her insurance
8 coverage?

9 A. Not to my knowledge. It's possible, you know,
10 she reached out to someone else.

11 Q. But you're not aware of any?

12 A. I'm not. That doesn't ring a bell, but I deal
13 with several employees so it's possible.

14 Q. Has DPS had any communications with the State
15 Health Plan regarding the exclusion for gender confirming
16 healthcare?

17 A. No. Not to my knowledge.

18 MR. MAROLF: Alan, I think I'm getting close to
19 done.

20 Do you mind if we take a quick break so I can go
21 back over my notes?

22 MR. MCINNIS: Works for us.

23 MR. MAROLF: 10 minutes? Let's just say come
24 back at 10:25.

25 (Off the record)

1 A. No, no, not in the termination.

2 We just process the separation action in the
3 Integrated HR Payroll System.

4 Q. I understand. Who makes the decision to
5 terminate an employee at a correctional institution?

6 A. So to my knowledge, it would probably start with
7 the supervisor and then go up through the chain of command
8 through the warden and superintendent.

9 And then if it's a termination, they work with
10 the Employee Relations Section in Central HR.

11 Q. So where does the buck stop?

12 A. I believe the Employee Relations Section would
13 give that final approval to terminate somebody.

14 Q. And that's an office in DPS. Is that correct?

15 A. Yes. In the Central HR Office.

16 Q. And that, and that individual then reports up to
17 the deputy secretary of the department?

18 A. Correct.

19 Q. And what is the name of the current person in
20 charge of the Employee Relations Section?

21 A. Cassandra Harris-Skinner.

22 Q. Let me just repeat it so I make sure -- Cassandra
23 Harris-Skinner.

24 A. Yes. Harris, H-A-R-R-I-S-hyphen-Skinner.

25 Q. I thought that's what it was. But between Zoom

1 start date so that she could fill it out.

2 Q. And I -- just -- I include this question only to
3 make sure the record is clear -- the paperwork I have,
4 which I received from your office, identifies the
5 employee's name as Dowd Caraway.

6 Would you agree for purposes of this litigation,
7 this is paperwork for Sergeant Dana Caraway within Sergeant
8 Caraway's personnel file?

9 A. Yes. I agree with that.

10 Q. That way, that way I don't have to keep on
11 saying, you know, I didn't show you the right paperwork.

12 Now, is there a training or certification
13 requirement for corrections officers?

14 A. Yes. They go to a basic certification training.

15 Q. And who provides that training?

16 A. Department of Public Safety.

17 Q. And is that training required as a condition of
18 being a corrections officer or being employed as a
19 corrections officer in the state of North Carolina?

20 A. To my knowledge, they have to complete the
21 training. But while they're going through the training or
22 until they pass the training, they're still a corrections
23 officer.

24 Q. I understand. So -- I'm going to show you
25 another exhibit.

1 as a corrections officer by the department?

2 A. Not to my knowledge. I think if they lose that
3 certification, then they usually separate at that point.

4 Q. And you mentioned that Sergeant Caraway currently
5 works at the Foothills Correctional Institution or that's
6 -- we, we -- that's possible.

7 Do you know of any, Sergeant Caraway's other
8 employment stations since 1994?

9 A. Looking through the personnel file, I believe she
10 was at Alexander Correctional. That's the only one that
11 stands out to me.

12 Q. So how does the hiring process work for a
13 corrections officer?

14 A. I'm not, I'm not familiar with the hiring process
15 because that's done at the, at the facilities.

16 Q. So, so the hiring process is handled by each
17 individual DPS facility?

18 A. Yes. That's correct.

19 Q. And the facilities advertise that the job, that
20 they have a job available?

21 A. Correct.

22 Q. And then the facility staff review applications?

23 A. Yes. That's correct.

24 Q. And then do they send some sort of notice to you
25 at the HR Department that they have hired someone?

1 A. So the prison facilities each have a Regional
2 Employment Office. So they would send the hiring paperwork
3 to the Regional Employment Office. It's not sent to
4 Central HR.

5 Q. So -- and the Regional Employment Office is --
6 are they under -- it sounds like they're not under Central
7 HR?

8 A. They are. They report up through -- we have --
9 there's a manager in Central HR that oversees the different
10 Regional Employment Offices across the state.

11 Q. But the Regional Employment Office handles the
12 hiring paperwork.

13 Is that correct?

14 A. Yes. That's correct.

15 Q. All right. And when you mentioned the NCID and
16 the log-on to what used to be referred to as the Beacon
17 system, is that information that would be provided by the
18 Regional Employment Office at each facility?

19 A. So each facility has an NCID administrator. And
20 that person is who would assign the NCID.

21 Q. Now, you say the NCID administrator -- is that a
22 DPS job title?

23 A. It's not a job title. It's just an assignment
24 that was given to someone at the facility to take on that
25 role.

1 individuals other than the lieutenant that would supervise
2 a correctional sergeant?

3 A. No, not to my knowledge. I think it would be the
4 lieutenant. And there's captains above that as well.

5 Q. But do you supervise any correctional sergeants?

6 A. No. I do not.

7 Q. Would there -- are you aware of anyone other than
8 the correctional lieutenant who would supervise Sergeant
9 Caraway?

10 A. Not to my knowledge, no.

11 Q. If there were a decision to terminate Sergeant
12 Caraway -- and this is, this is about the process vis-à-vis
13 the department, not that I have knowledge that there's any
14 basis for termination for Sergeant Caraway -- but if there
15 were a decision to terminate Sergeant Caraway, how does
16 that process work?

17 Would that originate with the correctional
18 lieutenant?

19 A. Yes, with the supervisor.

20 Q. And then would be processed through layers of
21 supervision above that?

22 A. Yes. To my knowledge.

23 Q. Are corrections sergeants expected to have
24 assigned uniforms and equipment?

25 A. Yes.

1 Q. Who supplies the assigned uniforms?

2 A. Department of Public Safety.

3 Q. Are they the property of the Department of Public
4 Safety?

5 A. Yes.

6 Q. And corrections officers are expected to return
7 those uniforms at the end of their service?

8 A. Yes. That's correct.

9 Q. Are corrections officers supplied equipment that
10 they use in the performance of their duties?

11 A. Yes.

12 Q. What equipment are they supplied?

13 A. I'm not aware of the specific equipment.

14 Q. But is that equipment supplied by the Department
15 of Public Safety?

16 A. Yes.

17 Q. Are the officers allowed to bring in their own
18 equipment for use in a facility?

19 A. Not to my knowledge.

20 Q. And when an officer leaves the service of the
21 Department of Public Safety, are they expected to return
22 that equipment?

23 A. Yes.

24 Q. Where are employment records stored for DPS
25 employees?

1 I've seen corrections officers listed in certain
2 generally available state directories.

3 And I've seen other directories that take law
4 enforcement officials out of the general population.

5 You can find out how much the accountant at the
6 Department of Audits makes but not how much a corrections
7 officer makes.

8 Who monitors -- actually, I'm going to show you a
9 document because I just don't know what it is. And I'm
10 going to ask if you, if you know -- it's a document
11 produced by the department.

12 (Exhibit 6 is marked for identification.)

13 MR. KNEPPER: Good news -- this was uploaded
14 prior to the deposition. Otherwise, we would be waiting
15 for a very long time.

16 THE WITNESS: Okay.

17 BY MR. KNEPPER:

18 Q. Have you seen a record like this before, Ms.
19 Johnson?

20 A. I have not.

21 Q. So do you know -- do you have any knowledge of
22 what information is contained in this record?

23 I see, for example, Begin Date, Completion Date,
24 and Course Number, Unlawful Workplace Harassment (2 hours),
25 and then the Contact Hours, 2.

1 Do you, do you have any understanding of what that
2 might be in reference to or what that might describe?

3 A. Yeah. I would assume it's the training courses
4 that are required.

5 Q. And you said required. Required by whom?

6 A. The Department of Public Safety -- in most cases.
7 Some might be Criminal Justice stuff as well.

8 Q. Does the Department of Public Safety have its own
9 training requirements for employees?

10 A. Yes.

11 Q. And employees are expected to participate in
12 those trainings or be disciplined?

13 A. Yes.

14 Q. You haven't seen this particular printout for
15 Sergeant Caraway.

16 Is that correct?

17 A. Correct.

18 Q. I want to show you another document in a slightly
19 different format.

20 Again, I'm going to ask you if you've seen it and
21 what it is.

22 (Exhibit 7 is marked for identification.)

23 THE WITNESS: Okay.

24 BY MR. KNEPPER:

25 Q. Have you seen this document before, Ms. Johnson?

1 Secretary of DPS?

2 A. I think, I think he reports to -- well, currently
3 yes, because we have an interim secretary.

4 But I think there's somebody else that he reports
5 to, and then the secretary is above that person.

6 Q. You said that -- does Mr. Dail have a title other
7 than HR Director?

8 A. No.

9 Q. Does DPS have a secondary employment policy?

10 A. Yes. We do.

11 Q. What is the secondary employment policy?

12 A. Employees have to notify us prior to taking on
13 secondary employment.

14 They would complete a form and give it to their
15 supervisor. And then we would make sure there's no
16 conflict of interest prior to approving it.

17 Q. And if an employee -- well, let me just ask you
18 -- what happens if an employee takes a secondary employment
19 position without receiving approval from the department?

20 A. The department can take disciplinary action.

21 Q. You said they can take disciplinary action.

22 A. Okay.

23 Q. Are you aware of circumstances in which the
24 department has taken disciplinary action?

25 A. I'm sure they have. It just doesn't come up

1 A. No.

2 Q. But your role is to ensure that the employee
3 record system reflects that leave of absence?

4 A. Yes.

5 Q. And that while someone is on an unpaid leave of
6 absence, they're not paid?

7 A. Can you repeat that?

8 Q. And to make sure that when someone is on an
9 unpaid leave of absence, they're not paid?

10 A. That would be the facility's responsibility
11 because they're entering the time.

12 Q. Okay. Is the -- does the Department of Public
13 Safety employ Sergeant Caraway?

14 A. Yes -- to my knowledge.

15 Q. Does the State Health Plan employ Sergeant
16 Caraway?

17 A. Not that I'm aware of.

18 Q. Does the State Health Plan have the authority to
19 hire or fire Sergeant Caraway?

20 A. Not that I'm aware of.

21 Q. Does the State Health Plan have the authority to
22 supervise Sergeant Caraway?

23 A. Not that I'm aware of.

24 Q. Does the State Health Plan have the authority to
25 discipline Sergeant Caraway?

1 A. Not that I'm aware of.

2 Q. Does the State Health Plan furnish the equipment
3 or the place of work for Sergeant Caraway?

4 A. Not that I'm aware of.

5 Q. Does the State Health Plan have custody over
6 Sergeant Caraway's personnel file?

7 A. No. Not that I'm aware of.

8 Q. Your testimony is that Sergeant Caraway has
9 worked for the Department of Public Safety since 1994.
10 Is that correct?

11 A. Yes. I believe that's correct.

12 Q. So doing the math, is that 17 years of employment
13 with -- or I guess -- no, it's -- now I'm going to be
14 embarrassed by my math -- is that 27 years of employment
15 with the Department of Public Safety?

16 A. Yes. That's what I calculate.

17 Q. I first thought 17 and then I realized that I've
18 been out of high school a lot longer than 17 years. And
19 1994 isn't that far away from when I was in high school.

20 MR. MCINNIS: Time flies.

21 BY MR. KNEPPER:

22 Q. Does DPS provide corrections officers with formal
23 and informal training?

24 A. Yes.

25 Q. Does DPS track the training provided to its

1 employees?

2 A. Yes.

3 Q. Okay. You stated that Sergeant Caraway -- we've
4 established that Sergeant Caraway is a Corrections Sergeant
5 for the Department of Public Safety.

6 Is that correct?

7 A. Yes. That's correct.

8 Q. Is there a job description for a corrections
9 sergeant with the Department of Public Safety?

10 A. Yes. There should be.

11 Q. And who, who, who is responsible for establishing
12 that job description?

13 A. I'm not sure who creates them initially, but the
14 supervisor maintains them.

15 Q. So an employee of the Department of Public Safety
16 at Foothills Correctional Institution is responsible --

17 A. Yes. That's correct.

18 Q. -- is responsible for Sergeant Caraway's job
19 description?

20 A. Yes. That's correct.

21 Q. And to the best of your knowledge, Sergeant
22 Caraway only provides services to the Department of Public
23 Safety?

24 A. Yes -- to the best of my knowledge.

25 Q. And if Sergeant Caraway provided, had a second

1 employer, the department's policy is that he needed to or
2 she needed to get that approved prior to assuming that
3 second task or second job?

4 A. Yes. That's correct.

5 Q. And a failure to do so is a basis for discipline
6 by the Department of Public Safety?

7 A. Yes. That's correct.

8 MR. KNEPPER: Ms. Johnson, I think that's it.

9 I'm going to ask for a couple of minutes to take
10 a brief break, to make sure there's nothing else that I've
11 missed or forgotten.

12 MR. MCINNIS: John, before you do that, I have
13 just a couple of questions. Let me ask those in case you
14 have some follow-up to those.

15
16 EXAMINATION

17 BY MR. MCINNIS:

18 Q. Ms. Johnson, my name is Alan McInnis. I
19 represent the North Carolina Department of Public Safety in
20 this matter.

21 Let me -- Mr. Knepper asked you some questions
22 about -- if you could pull up Exhibit 6 again.

23 Okay. I'm sorry, I'm sorry. Go back to Exhibit
24 8, the last exhibit.

25 And he asked you some questions about some of the